IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.1035 OF 2005

Vithal Health Care Pvt. Ltd. ...Appellant.

Vs.

Nasik Municipal Corporation. ...Respondent.

....

Mr. M.M. Sathaye for the Appellant.

.....

CORAM : DR. D.Y. CHANDRACHUD, J.

November 30, 2005.

P.C.:

Having regard to the circumstance that the suit is pending before the Learned Trial Judge since the year 2000, it would be appropriate to direct the Joint Civil Judge, Senior Division, Nasik to dispose of Special Civil Suit No.135 of 2000 within a period of six months from the date on which a certified copy of this order is placed before the Court. While declining interim relief, the Learned Trial Judge has arrived at the conclusion that after taking into account the amount which was deposited by the Appellant, the balance of Rs.1,28,146/- was due and payable. On behalf of the Appellant, it has been submitted

that the calculation suffers from error. It would be open to the Appellant, subject to the deposit of the amount which is due and payable to the Corporation and as demanded, to establish before the Trial Court at the hearing of the suit that the amount which has been demanded is in excess of the amount due and payable. The Learned Trial Judge shall duly consider the correctness of such submission. Since the amount which is deposited shall abide by the final result of the suit, it is not necessary to issue further directions. The Appellant shall have a period of three weeks to deposit the amount as demanded. No coercive steps will be taken for the period of three weeks.

The appeal is accordingly disposed of.

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